

Internal Revenue Service Large and Mid-Size Business Division

Abusive Tax Avoidance Transactions

July 31, 2003

Strategic Approach

- Early analysis of abusive transactions and published guidance
- Voluntary disclosure of abusive transactions
- Enforcement through taxpayer and promoter audits, summons enforcement, and targeted litigation

Improved Organization

- LMSB Tax Shelter Committee
- Section 6700 Committee
- Lead Executives (Issue Champions)
- Counsel and Appeals
- Tech Advisors and Field Specialists
- Office of Tax Shelter Analysis

Office of Tax Shelter Analysis (OTSA)

- .Tracks existing and emerging issues
- .Centralized data collection and analysis
- .Coordinates Strategic Actions
- .Program training and guidance
- .Nationwide Public Hotline

Published Guidance

- Identify and list abusive transactions as early as possible.
- 26 listed transactions to date
- Provides for consistent tax treatment
- Alerts investment community to abusive transactions being marketed
- Puts participants in listed transactions on notice that claimed tax benefits will be challenged

Promoter Program

- Determine promoter compliance with regulations
- Obtain information, including identities of investors, from promoters of abusive tax avoidance transactions.
- Summons documents and testimony as necessary
- Strategy aimed at deterring future promotion of abusive tax avoidance transactions.

Promoter Regulations

List Maintenance

Organizers and sellers of potentially abusive tax shelters are required to:

- Maintain lists of investors
- Maintain copies of all offering material
- Provide this information to IRS upon request

Promoter Investigations

- Over 90 promoters currently investigated
- Over 125 agents working on investigations
- Over 75 Counsel attorneys assisting
- Over 250 administrative summonses issued
- “John Doe” summons

Investor Disclosure

Taxpayers are required to disclose their participation in “reportable transactions”

- Listed Transactions
- Confidential Transactions
- Contractual Protections
- IRC Section 165 Loss Transactions
- Book – Tax Differences
- Brief Holding Period Transactions

Tax Accrual Workpapers

- Announcement 2002-63 revised policy on requests for tax accrual workpapers
- Policy is designed to encourage voluntary disclosure and deter future transactions

Mandatory IDR

- LMSB has mandated the use of an abusive tax avoidance transaction IDR
 - Requests information to determine if t/p has engaged in abusive tax avoidance transactions.
 - Use of IDR required in all LMSB corporate examinations

LMSB Penalty Policy

- Examiner must develop penalty in all abusive tax avoidance cases and determine if penalty should be imposed.
- The DFO will review and approve the decision to assert or not assert the penalty.

Disclosure Initiative

- Limited time opportunity for taxpayers to disclose
- Certain accuracy related penalties waived
- Conducted from 10/01 to 4/03
- 1,664 disclosures from 1,206 taxpayers
- New promoters and issues identified

Implementing Agreements

- Governmental Liaison

Memorandum of Understanding

- Facilitate Information Sharing
- Increase Audit Coverage
- Leverage Federal & State Resources
- Expansion to LMSB

Offshore Transactions

- Credit Cards
- Bank Accounts
- Trusts
- Partnerships
- Corporations

Information available on [irs.gov](https://www.irs.gov)

- Current information on Abusive Tax Avoidance Transactions.
- To access, click on [businesses](#), then [corporations](#), and [then Abusive Tax Shelters and Transactions](#)